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School Assignment and Transportation of Pupils

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School Assignment and Transportation of Pupils

Official Title and Summary Prepared by the Attorney General

SCHOOL ASSIGNMENT AND TRANSPORTATION OF PUPILS. LEGISLATIVE CONSTITUTIONAL AMENDMENT. Amends Section 7(a) of Article I of the Constitution to provide that nothing in the California Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the United States Constitution with respect to the use of pupil school assignment or transportation. Provides for modification of existing judgments, decrees, writs or other court orders to conform to the provisions of this subdivision. Provides that governing boards of school districts may voluntarily continue or commence a school integration plan. Financial impact: Indeterminable. Potential savings if school districts elect to reduce or eliminate pupil transportation or assignment programs as a result of this measure.

FINAL VOTE CAST BY LEGISLATURE ON SCA 2 (PROPOSITION 1)

Assembly—Ayes, 62
Noes, 17

Senate—Ayes, 28
Noes, 6

Analysis by Legislative Analyst

Background:

The U.S. Supreme Court has interpreted the U.S. Constitution to require public school desegregation only when the segregation was caused by government action with a discriminatory intent. The California Supreme Court has interpreted the State Constitution to require that public school segregation be alleviated regardless of what caused the segregation. Thus, the State Constitution now requires public school desegregation in cases where the U.S. Constitution does not.

Currently, there are many California school districts which are providing pupil transportation and/or assigning pupils to schools outside of their immediate neighborhoods in order to alleviate segregation. Other school districts are currently involved in court actions concerning desegregation, and still others could become involved in court actions at some time in the future.

Some school districts have started desegregation plans because of federal court orders or because of agreements with the U.S. Office of Civil Rights. Other school districts are carrying out desegregation plans because of California court decisions. A third group of school districts is implementing desegregation plans on a voluntary basis.

Proposal:

This proposition would limit the power of California courts to require desegregation. Specifically, desegregation could be required only in cases where the U.S. Constitution would require it. As a result, the proposition could affect 13 school districts which now have desegregation plans ordered or approved by a California court plus other school districts that are involved or could become involved in desegregation actions before California courts.

This measure has four major provisions. First, it would require California courts to follow applicable

federal court decisions when deciding if changes in pupil school assignment or pupil transportation are required to alleviate segregation. Consequently, if a California school district is found to have segregation for reasons other than government action with a discriminatory intent, the proposition would prohibit a California court from ordering the school district to start a pupil school assignment or pupil transportation desegregation plan.

Second, the proposition would make past California court decisions requiring desegregation through changes in pupil school assignment or pupil transportation subject to court review using the same standards applicable to the federal courts. Any person could request a court to review its prior decision that resulted in a pupil school assignment or pupil transportation plan. The court would then have to reconsider its prior decision, and if necessary issue a new ruling based upon the California Constitution as amended by this proposition.

Third, the proposition would require California courts that are asked to review their prior decisions to give first priority to such a review relative to other civil cases.

Fourth, public schools would be allowed to continue current desegregation plans and start new desegregation plans on a voluntary basis.

Fiscal Effect:

The proposition would have an unknown fiscal effect. It would not require any school district to stop or reduce current busing programs. Thus, it would not necessarily affect school district costs. However, because review of current court-ordered busing programs, as permitted by the proposition, might result in some of these programs being modified to require less busing, the proposition could result in significant sav-

ings to the state and school districts. The savings would only occur, however, if school districts chose to eliminate or reduce their current busing programs based on new court decisions. Additional state and local costs would result from court review of existing court decisions, and these costs would offset some portion of any

savings that might occur due to decreased busing.

Therefore, the net fiscal impact of this measure could range from a net increase in state and local government costs (if no districts chose to reduce or eliminate pupil transportation programs) to significant net savings (if many districts reduce or eliminate these programs).

Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment No. 2 (Statutes of 1979, Resolution Chapter 18) expressly amends an existing section of the Constitution; therefore, new provisions proposed to be inserted or added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO ARTICLE I

Subdivision (a) of Section 7 is amended to read:

(a) A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws; *provided, that nothing contained herein or elsewhere in this Constitution imposes upon the State of California or any public entity, board, or official any obligations or responsibilities which exceed those imposed by the Equal Protection Clause of the 14th Amendment to the United States Constitution with respect to the use of pupil school assignment or pupil transportation. In enforcing this subdivision or any other provision of this Constitution, no court of this state may impose upon the State of California or any public entity, board, or official any obligation or responsibility with respect to the use of pupil school assignment or pupil transportation, (1) except to remedy a specific violation by such party that would also constitute a violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution, and (2) unless a federal court would be permitted under federal decisional law to impose that obligation or responsibility upon such party to remedy the specific violation of the Equal Protection Clause of the 14th Amendment of the United States Constitution.*

Except as may be precluded by the Constitution of the United States, every existing judgment, decree, writ, or other order of a court of this state, whenever rendered, which includes provisions regarding pupil school assignment or pupil transportation, or which requires a plan including any such provisions shall, upon application to a court having jurisdiction by any interested person, be modified to conform to the provisions of this subdivision as amended, as applied to the facts which exist at the time of such modification.

In all actions or proceedings arising under or seeking application of the amendments to this subdivision proposed by the Legislature at its 1979-80 Regular Session, all courts, wherein such actions or proceedings are or may hereafter be pending, shall give such actions or proceedings first precedence over all other civil actions therein.

Nothing herein shall prohibit the governing board of a school district from voluntarily continuing or commencing a school integration plan after the effective date of this subdivision as amended.

In amending this subdivision, the Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support public education, maximizing the educational opportunities and protecting the health and safety of all public school pupils, enhancing the ability of parents to participate in the educational process, preserving harmony and tranquility in this state and its public schools, preventing the waste of scarce fuel resources, and protecting the environment.

Arguments in Favor of Proposition 1

CURRENTLY, THE CALIFORNIA CONSTITUTION CAN BE INTERPRETED TO REQUIRE COMPULSORY BUSING, INCLUDING METROPOLITAN COMPULSORY BUSING, IN CIRCUMSTANCES WHERE BUSING WOULD *NOT* BE REQUIRED BY THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

THE INTENT AND PURPOSE OF MY AMENDMENT IS TO PROHIBIT ANY CALIFORNIA JUDGE FROM ORDERING MANDATORY BUSING UNLESS THE BUSING IS REQUIRED BY FEDERAL LAW. This amendment is based on the conclusion that forced busing is *not* a useful tool in achieving desegregation because its financial and educational costs render it counterproductive.

COURT-ORDERED COMPULSORY BUSING HAS BECOME PART OF THE PROBLEM RATHER THAN PART OF THE SOLUTION. *The racial tension and strife of compulsory busing is counter-productive* to our goal of maximum racial harmony, and the furor over compulsory busing stands in the way of community support for voluntary integration. By adopting this amendment, we will allow our courts and local school officials to turn to other *more appropriate solutions*.

ON TUESDAY, NOVEMBER 6, PLEASE JOIN ME IN DOING EVERYTHING THAT WE LEGALLY CAN TO HELP STOP COMPULSORY BUSING. PLEASE VOTE *YES* ON PROPOSITION 1.

ALAN ROBBINS
State Senator, 20th District

One of the great myths of our society is that blacks and other minority children can only receive an effective and equal education through the use of forced busing programs. This is simply *not* true. The use of forced busing hinders voluntary integration participation and other steps which could improve the quality of education available in our schools.

AS MAYOR TOM BRADLEY HAS SAID, "MOST PARENTS, WHATEVER THEIR COLOR, WHATEVER THEIR BACK-

GROUND, WHEREVER THEY LIVE, DON'T WANT THEIR KIDS TRANSPORTED BACK AND FORTH ACROSS THE CITY."

Norman Cousins, the respected editor of *Saturday Review* and a strong supporter of integration, said a few years ago:

"The evidence is substantial that busing is leading away from integration and not toward it; that it has not significantly improved the quality of education accessible to blacks . . . that it has resulted in the exodus of white students to private schools inside the city or to public schools in the comparatively affluent suburbs beyond the economic means of blacks; and finally, that it has not contributed to racial harmony but has produced deep fissures within American society."

As a black parent and minister who cares about children, I urge you to help end forced school busing in California by voting *YES* on the *Robbins Amendment*.

REV. W. C. JACKSON
Pastor, Beth Ezel Baptist Church, Watts

As the plaintiff in *Serrano v. Priest*, I have worked to insure equal educational opportunity for all California children. The excessive use of court-ordered forced busing will not guarantee this result.

FORCED BUSING TO ACHIEVE INTEGRATION IS A SHAM. TO FORCE A CHILD TO SPEND THREE HOURS ON A BUS AND FIVE HOURS IN A CLASS DOES NOTHING MORE THAN CHANGE THE COLOR BALANCE OF A FEW SCHOOLS FOR A FEW HOURS.

Children would be better off if we spent these dollars on teachers and buildings rather than wasting it on compulsory busing.

ON NOVEMBER 6, I WILL CAST MY VOTE IN FAVOR OF EQUAL, QUALITY EDUCATION—I WILL VOTE *YES* ON PROPOSITION 1.

JOHN SERRANO, JR.
Plaintiff, Serrano v. Priest

Rebuttal to Arguments in Favor of Proposition 1

1. Busing will NOT come to a halt if Proposition 1 is passed.
2. Proposition 1 will NOT prevent metropolitan integration.
3. Proposition 1 will NOT release money for classroom use in Los Angeles.

Proposition 1's proponents would have you believe that the issue is busing, that amending the California Constitution will stop so-called compulsory busing, and that busing cannot be required under the U.S. Constitution.

Proponents hold up the specter of metropolitan busing, implying that Proposition 1 would block such a plan in Los Angeles and other California metropolitan areas.

Just this year the U.S. Supreme Court approved sweeping compulsory desegregation plans in which federal courts required metropolitan busing. Thus, federal standards may impose broader rather than narrower duties to desegregate.

Proponents complain of the excessive cost of busing under the existing Los Angeles integration order. But, in fact, under a metropolitan plan, busing would cost less and children would spend less time

traveling to and from school than some children spend under the current plan.

Since 1954, selfish and shortsighted persons who were responsible for the building of schools and housing in communities throughout California have refused to plan and implement long-term solutions which could have effected integration *WITHOUT* busing.

Until thoughtful planning for school locations and metropolitan zoning and intelligent housing programs are implemented, busing is one of the only tools we have to provide equal educational opportunity.

WE URGE YOU TO VOTE NO ON PROPOSITION 1.

DIANE E. WATSON
State Senator, 30th District
TERESA P. HUGHES
Member of the Assembly, 47th District
SUSAN F. RICE
President
League of Women Voters of California

School Assignment and Transportation of Pupils

1

Argument Against Proposition 1

Contrary to the promises made by the Amendment's supporters, neither desegregation in Los Angeles, nor the busing used as a tool to achieve it, would come to a halt with the passage of this measure.

In the Los Angeles school integration case, the trial court found—and the State Supreme Court agreed—that the segregation resulted from official acts of the school board. Even if the California Constitution were to be amended to make the so-called Federal standard on desegregation apply in California, *de jure* (i.e.: intentional) segregation would still require a remedy not only in Los Angeles but in other school districts all over the state.

There is good reason to believe that Proposition 1 will ultimately be declared unconstitutional, since its very enactment could be interpreted to be *de jure* (intentional) segregation. The backers of Proposition 1 have made it clear in public statements that it is their intention in seeking this amendment to thwart the court's mandate to desegregate the schools in Los Angeles.

The right of every citizen to equal protection of the law, currently guaranteed by our strong California Constitution, is effectively diluted by Proposition 1. The Tenth Amendment to the U.S. Constitution expressly reserves to the States the power to establish greater Constitutional protections for their citizens than those provided by the U.S. Constitution. Proposition 1 drastically weakens the California Constitution's protection of minority students and their right to equal educational opportunity, consigning a generation of minority children to segregated inferior schools.

The campaign in favor of this amendment has played on fears and stirred up racial hostilities. If enacted, it will be a signal to all citizens

of California that the state is on the side of prejudice, not equality. By making it possible to reopen cases in districts presently under California court order, the amendment would further generate disruption and turmoil where progress is being made toward desegregation.

Quality education should be available to all the students of our state; it cannot be achieved in a segregated setting. School districts should be encouraged and committed to making education a realistic experience, as we live in an integrated society. But passage of this amendment effectively prevents our school system from preparing our children to function in the real world.

In short, the enactment of this proposition will not deliver what its proponents have promised: the blocking of court-ordered school desegregation in Los Angeles. It will make the state a party to discrimination; it will increase racial conflict; it will restrict educational opportunities for school children; it will touch off a series of costly court battles; and it will set a precedent of altering the California Constitution for political gain.

We urge voters to vote "NO" on Proposition 1.

DIANE E. WATSON
State Senator, 30th District

TERESA P. HUGHES
Member of the Assembly, 47th District

SUSAN F. RICE
President
League of Women Voters of California

Rebuttal to Argument Against Proposition 1

THE ROBBINS AMENDMENT HAS BEEN VERY CAREFULLY DRAFTED TO WITHSTAND ANY CONSTITUTIONAL CHALLENGE AND TO STOP COURT-ORDERED FORCED BUSING IN CALIFORNIA. That is what it is designed to do, and *that is all it will do.*

The opponents of Proposition 1 argue that it will cause segregation and reduce the quality of our schools. In fact, it will do just the opposite.

The Robbins Amendment will assure quality education for the children of California. **IT WILL PUT MONEY WHERE IT IS NEEDED—INTO SCHOOLS, TEACHERS AND BOOKS—NOT INTO BUSES, GAS AND BUS DRIVERS.**

Forced busing has *not* eased racial tension, it has *not* stopped discrimination, and it has *not* improved the quality of education. It merely forces large numbers of children to take long daily bus rides.

THE SCOPE OF OUR AMENDMENT IS LIMITED TO THE PROBLEMS CAUSED BY COURT-ORDERED BUSING. It makes no attempt to interfere with the prerogatives of local school districts

and does *not* diminish their obligation to provide minority students with equal educational opportunities.

By ending the use of court-ordered forced busing, unless such busing is required by the U.S. Constitution, *Proposition 1 does everything the people of California may legally do to stop court-ordered forced busing* in Los Angeles and in all other California school districts. That is one reason why the California P.T.A. has urged the adoption of this type of amendment.

When you vote on the 6th of November, please vote YES on Proposition 1, the Robbins Amendment, and help end forced busing in California.

ALAN ROBBINS
State Senator, 20th District

REV. W. C. JACKSON
Pastor, Beth Ezel Baptist Church, Watts

JOHN SERRANO, JR.
Plaintiff, Serrano v. Priest